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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

IN RE: McCLAIN FEED YARD, INC., McCLAIN FARMS, INC., AND 7M CATTLE FEEDERS, INC., Debtors. ¹	Chapter 7 CASE NO. 23-20084-rlj Jointly Administered
RABO AGRIFINANCE LLC,	ADV. PROC. NO. 23-02005-rlj

¹ The Debtors in these jointly administered cases are: (1) McClain Feed Yard, Inc. (Case No. 23-20084); (2) McClain Farms, Inc. (Case No. 23-20885); and (3) 7M Cattle Feeders, Inc. (Case No. 23-20886). All three cases are being jointly administered under the case number for McClain Feed Yard, Inc.

<i>Plaintiff,</i> v. ACEY LIVESTOCK, LLC et al., <i>Defendants.</i> ²	Honorable Robert L. Jones
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MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST DEFENDANTS (i) C HEART RANCH, LLC; (ii) GARWOOD CATTLE CO.; (iii) KINGDOM TRUST; (iv) LFC CATTLE; (v) PRODUCERS LIVESTOCK COMMISSION; (vi) STARNES CATTLE; (vii) TGF RANCH LLC; (viii) TINDAL TRUCK SALES; (ix) WILDFOREST CATTLE COMPANY, LLC; AND (x) WJ PERFORMANCE HORSES, INC.

² The Defendants named in the Complaint are ACEY LIVESTOCK, LLC; MICHAEL ACEY; STAN E. AYERS, JR.; ARNOLD BRAUN TRUST; ARNOLD BRAUN; ROBERT BRAUN; BAR D RANCH LAND & CATTLE LLC; N. TERRY DICKS; BARRETT'S LIVESTOCK INC.; DON RALPH BARRETT; BELLA ELEGANCE LLC; BIG SEVEN CAPITAL PARTNERS, LLC; DORA BLACKMAN; BRYAN BLACKMAN; EDDIE BRYANT; BRENT BURNETT; JOE BURNETT; TERRY BURNETT; BUSS FAMILY TRUST; EDWIN D. BUSS; DENNIS BUSS; C HEART RANCH, LLC; COLETTE LESH; CARRAWAY CATTLE, LLC; RICHARD CARRAWAY; CURTIS JONES FARMS; DAC83 LLC; ERIC DeJARNATT; DON JONES FARM, INC.; DON JONES TRUCKING, INC.; DUFURRENA CUTTING HORSES; EDWARD LEWIS DUFURRENA; RIETA MAY DUFURRENA; ROBERT ELLIS; MICHAEL EVANS; DOUG FINLEY; GARWOOD CATTLE CO.; JUSTIN GARWOOD; GENE BROOKSHIRE FAMILY, LP; JOEL BROOKSHIRE; GRAY BROTHERS CATTLE; ROBERT GRAY; RONNIE GRAY; JIMMY GREER; GUNGOLL CATTLE, LLC; BRADLEY GUNGOLL; LEAH GUNGOLL; JACE HARROLD; HINES CATTLE COMPANY, LLC; HINES FARMS, LLC; A.J. JACQUES LIVING TRUST; CORY JESKO; DWIGHT JESKO, JOANN & KEITH BROOKS d/b/a BROOKS FARMS; LARRY KEITH; DUSTIN JOHNSON; DAVID JOHNSON; KINSEY JONES; KINGDOM TRUST; JAMES MCCUAN; KEITH HARRIS; JANICE LAWHON; JAN LESH; MORRISON CAFÉ, LLC; LESH FAMILY TRUST; GARY LESH; JARED LESH; JORDAN LESH, LLC; LFC CATTLE; CHARLES LOCKWOOD; COLE LOCKWOOD; SHERLE LOCKWOOD; NIKKI LOCKWOOD; MAP ENTERPRISES; MIKE GOURLEY; NATALIE MARTUS; JEAN NIX; OPEN A ARENA LLC; BARRY PHILLIPS; DREW PHILLIPS; PRIEST CATTLE COMPANY LTD; PRIEST VICTORY INVESTMENT LLC; CHRISTOPHER PRINCE; PRODUCERS LIVESTOCK COMMISSION; SONNY BARTHOLD; DAVID RAINEY; RAPP RANCH; MARK J. REISZ; RALPH REISZ; RIDGEFIELD CAPITAL ASSET MANAGEMENT; JIM GIORDANO; RILEY LIVESTOCK, INC.; ANGIE ROBINSON; RICK RODGERS; STEVE RYAN; JIM RININGER; SCARLET & BLACK CATTLE, LLC; COLTON LONG; SCOTT LIVESTOCK COMPANY; SHAW & SHAW FARMS PARTNERSHIP LLC; THE UNIVERSITY OF FLORIDA; ROBERT J. SPRING; STARNES CATTLE; JEFF STARNES; EDDIE STEWART; ROBERT STEWART; RACHEL STEWART; SCOTT E. STEWART; STEVE T SCOTT FARMS, INC.; JUSTIN STUEVER; PHILLIP SULLIVAN; AMY SUTTON; CRAIG SUTTON; TGF RANCH LLC; TOM FRITH; THORLAKSON DIAMOND T FEEDERS, L.P.; JOHN TIDWELL; MYKEL TIDWELL; TINDAL TRUCK SALES; JOHN TINDAL; JANET VANBUSKIRK; LYNDAL VANBUSKIRK; SUSAN VAN BUSKIRK; COLBY VANBUSKIRK; CAMERON WEDDINGTON; NANCY WEDDINGTON; WILLIAM WEDDINGTON; WILDFOREST CATTLE COMPANY LLC; WILEY ROBY RUSSELL, JR. as TRUSTEE OF THE W. ROBBIE RUSSELL LIVING TRUST; WJ PERFORMANCE HORSES, INC.; JOB WHITE; and KENT RIES, in his capacity as CHAPTER 7 TRUSTEE OF THE DEBTORS' CONSOLIDATED BANKRUPTCY ESTATE.

Pursuant to Fed. R. Bankr. P. 7055, Plaintiff Rabo AgriFinance LLC (“**Plaintiff**” or “**RAF**”), through counsel, respectfully moves the Clerk of this Court (or alternatively, the Honorable Robert L. Jones, United States Bankruptcy Court Judge) to enter a Default Judgment in favor of Plaintiff and against each of Defendants C Heart Ranch, LLC, Garwood Cattle Co., Kingdom Trust, LFC Cattle, Producers Livestock Commission, Starnes Cattle, TGF Ranch, Tindal Truck Sales, Wildforest Cattle Company, LLC, and WJ Performance Horses, Inc., (collectively “**Defendants**”), based on each of the Defendants failure to answer, respond or otherwise object in a timely manner to Plaintiff’s Amended Complaint in the above-titled action (the “**Complaint**”).

The time for the Defendants to file an answer, motion or other appropriate response has now expired.

This Motion is based on the *Declaration of Michael R. Johnson in Support of Plaintiff’s Motion for Entry of Default Judgment* (the “**Johnson Decl.**”), as well as the Court’s docket, which show that:

1. On November 30, 2023, Plaintiff filed its First Amended Complaint for Declaratory Relief (“**Complaint**”). [Dkt. 3.] (Johnson Decl. ¶4)

SERVICE ON C HEART RANCH, LLC (“C Heart”)

2. On December 4, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of C Heart at 454 Daniels Lane, Ardmore, OK 73401. (Johnson Decl. ¶5)

3. The above noted address in Ardmore, Oklahoma is the same address as C Heart listed on its Dealer Trust Notification Section 318 (7 U.S.C. 181-229) (the “**Dealer Trust Claim**”) filed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶6)

4. On December 18, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on C Heart. [Dkt. 20.] (Johnson Decl. ¶7)

5. C Heart was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶8).

6. C Heart has failed to appear and answer or otherwise respond to the Plaintiff’s Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶9)

SERVICE ON GARWOOD CATTLE CO. (“Garwood”)

7. On December 4, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Garwood at 2538 Middleton Rd., Columbiana, OH 44408. (Johnson Decl. ¶10).

8. The above noted address in Columbiana, Ohio is the same address as Garwood listed on its Dealer Trust Claim filed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶11)

9. On December 21, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on Garwood. [Dkt. 64.] (Johnson Decl. ¶12)

10. Garwood was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶13)

11. Garwood has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶14)

SERVICE ON KINGDOM TRUST ("Kingdom")

12. On December 4, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Kingdom at 6804 Poplar Corner Rd., Bells, TN 38006. (Johnson Decl. ¶15)

13. The above noted address in Bells, Tennessee is the same address as Kingdom listed on its Dealer Trust Claim filed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶16)

14. On December 21, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on Kingdom. [Dkt. 69.] (Johnson Decl. ¶17)

15. Kingdom was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶18)

16. Kingdom has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶19)

SERVICE ON LFC CATTLE (“LFC”)

17. On December 4, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of LFC at P.O. Box 778, Ringling, OK 73456. (Johnson Decl. ¶ 20)

18. The above noted address in Ringling, Oklahoma is the same address as LFC listed on its Dealer Trust Claim filed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶21)

19. On December 21, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on LFC. [Dkt. 61.] (Johnson Decl. ¶22)

20. LFC was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶23)

21. LFC has failed to appear and answer or otherwise respond to the Plaintiff’s Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶24)

SERVICE ON PRODUCERS LIVESTOCK COMMISSION (“Producers”)

22. On December 4, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Producers at 2501 Exchange Ave 128, Oklahoma City, OK 73108. (Johnson Decl. ¶25)

23. The above noted address in Oklahoma City, Oklahoma is the address for Producers as listed with the United States Department of Agriculture, Packers & Stockyards

Division. It also is the address listed on the website for Producers,

<https://producerslivestockcommission.com/>. (Johnson Decl. ¶26)

24. On January 12, 2024, the Plaintiff filed its Proof of Service of Summons and Complaint on Producers. [Dkt. 117.] (Johnson Decl. ¶27)

25. Producers was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶28)

26. Producers has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶29)

SERVICE ON STARNES CATTLE ("Starnes")

27. On December 5, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Starnes at 851 SW 6th Ave., Williston, FL 32696. (Johnson Decl. ¶30)

28. The above noted address in Willison, Florida is the address for Starnes as listed with the United States Department of Agriculture, Packers & Stockyards Division. (Johnson Decl. ¶31)

29. On December 27, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on Starnes. [Dkt. 86] (Johnson Decl. ¶32)

30. Starnes was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶33)

31. Starnes has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶34)

SERVICE ON TGF RANCH LLC (“TGF”)

32. On December 5, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of TGF at 1585 E. M79 Hwy, Hastings, MI 49058. (Johnson Decl. ¶35)

33. The above noted address in Hastings, Michigan is the address TGF listed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶36)

34. On December 19, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on Starnes. [Dkt. 43] (Johnson Decl. ¶ 37)

35. TGF was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶38)

36. TGF has failed to appear and answer or otherwise respond to the Plaintiff’s Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶39)

SERVICE ON TINDAL TRUCK SALES (“Tindal”)

37. On December 5, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Tindal at 3484 State Route 45N, Mayfield, KY 42066. (Johnson Decl. ¶40)

38. The above noted address in Mayfield, Kentucky is the address Tindal listed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶41)

39. On December 18, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on Tindal. [Dkt. 25] (Johnson Decl. ¶42)

40. Tindal was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶43)

41. Tindal has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶44)

SERVICE ON WILDFOREST CATTLE COMPANY LLC ("Wildforest")

42. On December 7, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of Wildforest at 1206 Paris Rd., Mayfield KY 42066. (Johnson Decl. ¶45)

43. The above noted address in Mayfield, Kentucky is the address Wildforest listed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶46)

44. The service package mailed via certified mail was returned to Plaintiff's counsel as unclaimed; therefore, the Plaintiff arranged to serve Wildforest by a local process server. (Johnson Decl. ¶47)

45. Kentucky Process Service Inc. attempted to serve Wildforest on January 20, 2024 and January 31, 2024 upon Samuel S. Brown, the agent of Wildforest. Mr. Brown refused to accept service. (Johnson Decl. ¶48)

46. On January 25, 2024, the Complaint and the duly issued Summons dated December 1, 2023, were mailed by first-class mail, to Wildforest at 1206 Paris Rd., Mayfield KY

42066. The service package has not been returned to Plaintiff's counsel as undeliverable.

(Johnson Decl. ¶49)

47. On February 8, 2024, the Plaintiff filed its Proof of Service of Summons and Complaint on Wildforest which outlined the service attempts outlined above. [Dkt. 132]

(Johnson Decl. ¶50)

48. Based upon the January 25, 2024, mailing, Wildforest was to file and serve its answer or other appropriate response by no later than February 26, 2024 (30 days from January 25, 2024 was Saturday, February 24, 2024; therefore the answer date rolled to Monday, February 26, 2024). (Johnson Decl. ¶51)

49. Wildforest has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶52)

SERVICE ON WJ PERFORMANCE HORSES, INC. ("WJ")

50. On December 5, 2023, the Complaint and the duly issued Summons dated December 1, 2023, were mailed via certified mail, return receipt requested, and first-class mail, to the last known address of WJ at 650 FM 163, Cleveland, TX 77327. (Johnson Decl. ¶53)

51. The above noted address in Cleveland, Texas is the address WJ listed with the United States Department of Agriculture, Packers & Stockyards Division. A copy of the Dealer Trust Claim can be provided to the Court upon request. (Johnson Decl. ¶54)

52. On December 20, 2023, the Plaintiff filed its Proof of Service of Summons and Complaint on WJ. [Dkt. 57] (Johnson Decl. ¶55)

53. WJ was to file and serve its answer or other appropriate response by no later than January 2, 2024. (Johnson Decl. ¶56)

54. WJ has failed to appear and answer or otherwise respond to the Plaintiff's Complaint on file in this action, and the time for doing so has now expired. (Johnson Decl. ¶57)

FACTS APPLICABLE TO ALL DEFENDANTS

55. None of the Defendants listed herein are natural persons and therefore, not in military service. (Johnson Decl. ¶58)

56. None of the Defendants listed herein are an infant or incompetent person. (Johnson Decl. ¶59)

57. Because each of the Defendants failed to file an answer or otherwise respond to Plaintiff's Complaint within the time period allowed by law, on May 20, 2024, Plaintiff filed its request that a *Certificate of Default* against each of the Defendants be entered. (Johnson Decl. ¶60)

58. Plaintiff's Complaint seeks a Declaratory Judgment only against the Defendants. No money damages are requested. Further, while the Complaint requests numerous declaratory findings from the Court, not all requested declaratory relief findings are necessary as part of the Default Judgment Plaintiff requests.

59. As part of this Motion, Plaintiff requests that the Court's Default Judgment contain the following declaratory findings only:

A. To the extent that any of the Defendants filed a claim with the United States Department of Agriculture, Packers & Stockyards Division asserting claims (the "**Dealer Trust Claims**") against McClain Feed Yard, Inc., McClain Farms, Inc, 7M Cattle Feeders, Inc. and/or Brian McClain (collectively, the "**McClain Debtors**") under 7 U.S.C. § 217b

(the “**Dealer Trust Statute**”), such claim is not a valid claim under the Dealer Trust Statute.

B. Defendants’ Dealer Trust Claims are not valid and are not payable under the Dealer Trust Statute.

C. Defendants are not entitled to any funds or payments as a trust fund claimant or secured creditor under the Dealer Trust Statute.

D. The preliminary decision of the United States Department of Agriculture, Packers & Stockyards Division, to disallow the Defendants’ Dealer Trust Claims is affirmed, and Defendants have no rights against the McClain Debtors or their bankruptcy estates under the Dealer Trust Statute.

E. Defendants’ rights against the McClain Debtors, their bankruptcy estates and their assets, if any, are junior and inferior to Plaintiff’s rights against the McClain Debtors, their bankruptcy estates and their assets.

F. If and to the extent any of the Defendants has claims against the McClain Debtors related to the subject matter of its Dealer Trust Claims, those claims are, at most, general unsecured claims and not secured claims or trust claims.

60. Except as set forth above, all other requests for declaratory relief in Plaintiff’s Complaint against any particular Defendant identified herein, if any, are unnecessary, should be denied as moot, and should be dismissed.

Based on the foregoing, and pursuant to Federal Rules of Civil Procedure 55(b)(1), as incorporated by Fed. R. Bankr. P. 7055, Plaintiff hereby requests the entry of a Default Judgment in favor of Plaintiff and against each of the Defendants named herein as set forth in paragraph 59

above. Plaintiff also requests an award of its recoverable costs and expenses, excluding attorneys' fees, to the extent authorized or allowed by law.

Plaintiff has submitted a proposed Default Judgment herewith.

DATED this 22nd day of May, 2024.

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/s/ Michael R. Johnson
Michael R. Johnson
Attorneys for Rabo AgriFinance LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2024, I electronically filed the foregoing **Motion for Entry of Default Judgment** with the United States Bankruptcy Court for the Northern District of Texas by using the CM/ECF system which sent notice to registered ECF users in this case. I further certify that on May 17, 2024, I mailed the foregoing via first class mail to the following:

C Heart Ranch, LLC
454 Daniels Lane
Ardmore, OK 73401

Garwood Cattle Co.
2538 Middleton Rd.
Columbiana, OH 44408

Kingdom Trust
6804 Poplar Corner Rd.
Bells, TN 38006

LFC Cattle
P.O. Box 778
Ringling, OK 73456

Producers Livestock Commission
2501 Exchange Ave. 128
Oklahoma City, OK 73108

Starnes Cattle
851 SW 6th Ave.
Williston, FL 32696

TGF Ranch LLC
1585 E. M79 Hwy
Hastings, MI 49058

Tindal Truck Sales
3484 State Route 45N
Mayfield, KY 42066

Wildforest Cattle Company LLC
1206 Paris Rd.
Mayfield, KY 42066

WJ Performance Horses, Inc.
650 FM 163
Cleveland, TX 77327

/s/ Carrie Hurst